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CRAIG YATES

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

CRAIG YATES)	Case No. C 07 4087JSW
)	
Plaintiff,)	RELATED CASE NO. C 07 3685 SBA
)	
vs.)	DECLARATION OF GENE A.
)	FARBER IN SUPPORT OF
UNION SQUARE; CITY AND COUNTY)	PLAINTIFFS' OPPOSITION TO
OF SAN FRANCISCO; CITY OF SAN)	RELATED CASE DESIGNATION
FRANCISCO UPTOWN PARKING)	
CORPORATION; EMPORIO RULLI IL)	
CAFFE UNION SQ.; EMPORIO RULLI IL)	
CAFFE UNION SQ., INC.; and DOES 1)	
through 50, Inclusive,)	
)	
Defendants.)	

I, Gene A. Farber, declare as follows:

1. I am an attorney at law duly licensed to practice law in the courts of the State of California, as well as the Northern District of California. I am Of Counsel to the Themisch Law Firm, counsel for CRAIG YATES, plaintiff in this action. I have personal knowledge of the facts set forth in this declaration and, if called upon as a witness, I could and would testify competently as follows.

1 2. On October 19, 2007 I called Mark T. Johnson, counsel for plaintiffs in the *Kirola*
2 case, and spoke to him by telephone regarding the Notice of Related Case filed in the
3 *Yates* case. After discussing the cases, we concluded that any reassignment and possible
4 consolidation or coordinated hearing of the cases would be contrary to the interests of
5 judicial economy and the efficient prosecution of either case. We also agreed that any
6 concerns arising from the fact that the cases might overlap with respect to the Union
7 Square (the sole concern of the *Yates* case) could be easily addressed by amending the
8 *Kirola* complaint to exclude Union Square and the sidewalk contiguous to it.
9

10 1. Mr. Johnson told me that the *Kirola* plaintiffs would to seek leave to amend their
11 complaint, and amend their complaint, in the immediate future to exclude the city block
12 comprising Union Square from the scope of their complaint.
13

14 2. Yates will not seek class action status in the present posture of the case, nor has
15 Yates made any class allegations. The gravamen of the Yates action includes allegations
16 under Title III of the ADA, whereas Kirola is focused exclusively on claims pursuant to
17 Title II of the ADA.
18

19 I declare under penalty of perjury under the laws of the United States and the State of
20 California that the foregoing is true and correct.

21 DATED: October 23, 2007

22 _____
23 GENE A. FARBER
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